

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 21-cv-02937-NYW-STV

(To be supplied by the court)

DEMARCO WHITE

, Plaintiff

v.

JESSE BALDRIDGE

TAYLOR CAMP

TERRY JAKUES

, Defendant(s).

*(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)*

PRISONER COMPLAINT

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

**Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.**

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**JAN 09 2023**

**JEFFREY P. COLWELL**  
CLERK

**A. PLAINTIFF INFORMATION**

*You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.*

DEMARCO WHITE, DOC# 122323, AVCF, 12750 Hwy 96 at Lane 13, Ordway, CO 81034

(Name, prisoner identification number, and complete mailing address)

(Other names by which you have been known)

*Indicate whether you are a prisoner or other confined person as follows: (check one)*

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

☐ Other: (Please explain) \_\_\_\_\_

**B. DEFENDANT(S) INFORMATION**

*Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."*

Defendant 1: Jesse Baldridge, Corrections Officer, Colorado Dept. of Corrections  
(Name, job title, and complete mailing address)

1250 Academy Park Loop, Colorado Springs, CO 80910

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☐ No (check one). Briefly explain:

Defendant Baldridge was working in his capacity as a Corrections  
officer for the CDOC, State of Colorado

Defendant 1 is being sued in his/her ☒ individual and/or ☒ official capacity.

Defendant 2: Taylor Camp, Corrections Officer, Colorado Dept. of Corrections  
(Name, job title, and complete mailing address)

1250 Academy Park Loop, Colorado Springs, CO 80910

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☐ No (check one). Briefly explain:

Defendant Camp was working in his capacity as a Corrections  
officer for the CDOC/ State of Colorado

Defendant 2 is being sued in his/her ☒ individual and/or ☒ official capacity.

Defendant 3: Terry Jaques, Warden, LCF, Colorado Dept. of Corrections  
(Name, job title, and complete mailing address)

1250 Academy Park Loop, Colorado Springs, CO 80910

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☐ No (check one). Briefly explain:

Defendant Warden Terry Jaques was working in his capacity as the  
Warden at LCF, CDOC/ State of Colorado

Defendant 3 is being sued in his/her ☒ individual and/or ☒ official capacity.

### C. JURISDICTION

Indicate the federal legal basis for your claim(s): (check all that apply)

☒ 42 U.S.C. § 1983 (state, county, and municipal defendants)

☐ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)  
(federal defendants)

☒ Other: (please identify) 42 U.S.C. § 12101, The Americans with disabilities Act

☒ Other: 42 U.S.C. § 12132, Rehabilitation act

#### **D. STATEMENT OF CLAIM(S)**

*State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."*

**CLAIM ONE: Excessive Force, in violation of the 4th, 8th, and 14th Amendments**

Supporting facts:

- 1.) On January 23, 2021, COVID 19 was ravaging its way through the Limon Correctional facility, or the Colorado Department of Corrections as it was nearly everywhere on planet Earth.
- 2.) The Plaintiff, Mr. Demarco White, was incarcerated at the Limon Correctional Facility at all times relevant to this action, and specifically on January 23, 2021, and January 24, 2021 when all things related herein transpired.
- 3.) Mr. White, when the events as described in this complaint, was a 44 year old 5 foot 11 inch 390 pound African American male who suffered from COPD (Chronic Obstructive Pulmonary Disease), severe Hypertension (high blood pressure), Sleep Apnea, and he was pre-diabetic-later to be fully diagnosed. Mr. White was on a number of medications used to treat the aforementioned diseases/ conditions. In addition, he used, on a daily basis, both an Albuterol Asthma inhaling device, and a CPAP machine that was used to help him breathe properly and to maintain adequate levels of Oxygen.
- 4.) According to the NIH (National Institutes of Health), and the CDC (Centers for Disease control), Mr. White's various diseases/ conditions, coupled with his height, weight, and ethnicity, Mr. White was not only in the highest category for being at-risk for contracting the most severe strains of COVID-19, but also due



to his exasperated health issues, his probability of succumbing to the virus and experiencing death were almost 4 times greater than that of an average member of the U.S. middle aged population.

5.) Because Mr. White fell into this high risk statistical category, that both the NIH and the CDC clearly outlined to both the general public, but specifically to the medical department of the Colorado Department of Corrections and the Limon Correctional Facility, he was placed in a single cell to help isolate him from other offenders.

6.) Because Mr. White suffered from COPD, the medical provider for DOC had placed a "NO SPRAY ORDER" in his file, and had been entered into the CDC PCDIS computer system. This order prevented any DOC staff member from using or deploying any for of Tear gas, Mace, or OC gas (Oleoresin Capsicum). This is because these products are known to constrict the individual's air flow and breathing ability on who they were deployed, and in the event that individual had a breathing disease such as Asthma or COPD, as Mr. White had, the use of these products could result in the offender's death due to asphyxiation.

7.) For reasons that are unclear, on the dates in question, the medical staff failed to provide the prescribed medications to Mr. White (and possibly other offenders living in housing unit LCF unit 2B). This had been transpiring for several days.

8.) Prison being prison, this gross deficiency of the LCF medical staff severely irritated the LCF general population, and out of frustration, a number of offenders (which did not include the Plaintiff Mr. White) began to "flood" their cells by plugging up their toilets, then repeatedly flushing their toilets, thereby causing thousands of gallons of grey sewage/ toilet water to pour off the 3 tiers and leak into all the lower cells, including Mr. White's cell.

9.) Out of fear of infection and sanitation issues in general, Mr. White asked for and received a VIREX spray bottle that he used to disinfect his cell area.

10.) All during the day of January 22, 2021 and well into January 23, 2021, Mr. White was experiencing significant breathing problems. Assuming it was either COVID-19 or COPD related, Mr. White asked the LCF Unit 2 staff to contact LCF medical, inform them that Mr. White had not been given his breathing (and other) medications.

11.) Believeing that he had no other options or leverage to get his medication and some critical medical treatment, the Plaintiff, when asked to give the virex bottle back to staff, he refused and informed the staff that they would not get the bottle until he received his medication, and saw medical personel. Mr. White was aware that as per the LCF/ DOC protocol, all cleaning equipment needed to be turned in and accounted for at the end of each shift, otherwise the staff would not be allowed to go home, until it was returned.

12.) The breathing medication that Mr. White desperately needed, but which was not being provided, had been prescribed by the LCF medical provider previously and opened his airways, thus allowing him to fully breathe. When he was denied the medication, he had to gasp for breath and his heart raced.

13.) Making matters worse, Mr. White, several days before, had tested positive for COVID-19 (which was why he was in the quarantined pod that he was in). Mr. White had been advised by LCF medical personel that because he was at the highest risk category, coupled with his breathing disease (COPD) he was told that he must take the breathing medication twice a day, every day, and religiously so long as he was positive for COVID-19. He was further advised that any failure to do so could result in death.

14.) Every minute that passed, as Mr. White's breathing became more and more constricted, his level of anxiety grew. He repeatedly told the staff that he needed his medication and that if they simply gave it to him, as they were supposed to have, he would gladly return the bottle.

15.) Mr. White was approached by Lt. Wilson, who was the acting shift commander. It is DOC protocol to immediately notify both the shift commander and the Warden if there is any situation where a 'tool' (or equipment) was not turned in past any shift change. The DOC mandates full tool accountability at the start and completion of each and every shift, for obvious reasons. Lt. Wilson asked Mr. White to return the bottle. Mr. White had previously had a good repor with Lt. Wilson, and he explained to him that he was desperately in need of his medication and medical care, and that he knew the bottle was his only piece of leverage, as he feared that as soon as he turned it in, he would continue to be ignored by the staff and not given what could have been life saving medication, and medication that had certainly been billed as such by the Physician who initially prescribed it.

16.) Several minutes later, Lt. Wilson returned with a male nurse named K.Gill. Nurse Gill was visibly irritated by the incident and rudely and condescendingly demanded that Mr. White return the bottl. When Mr. White asked Nurse Gill about his medication, nurse Gill became more demanding. Nurse Gill was the LCF staff member who had been responsible to bring Mr. White his meds and had failed to do so previously. Had nurse Gill simply provided the meds, none of what they were dealing with at that time would be transpiring. Mr. White explained this to nurse Gill, and once again asked for his medication.

17.) Nurse Gill told him that he was not going to get any medication until he released custody of the bottle.

18.) Mr. White told nurse Gill that his job was to administer his meds, and not to be conducting security sweeps for spray bottles. He once again explained to nurse Gill that if Gill had just provided the medication as he was required to do, they would not be engaged in this controversey. Nurse Gill started yelling at Mr. White and an argument ensued.

19.) Mr. White threw a small cup of water that he had in his hand to take his pills with, and he threw it in Gill's direction, getting him slightly wet. .

20.) Nurse Gill informed Mr. White that due to his actions , he had just assaulted a staff member by getting the nurse wet. Gill went on to say that as a result he would be punished by not getting his meds at any point. Lt. Wilson and nurse Gill, after having refused Mr. White his medications (3) three times, and unsuccessfully trying to retrieve the bottle (3) three times, they left for the evening without any further incident.

21.) Because Nurse Gill claimed that being splashed with the water that Mr. White threw on him rose to the level of an assault on staff incident, per DOC policy, Defendant, Warden Terry Jaques would have been required to have been notified.

22.) The next day, on Sunday January 24th, 2021 at approx. 10 a.m., and after Mr. White had again repeatedly been told that he would not be given his medication/ and or simply ignored/ not provided his medication, Mr. White's condition worsened and his breathing became more difficult. Shortly thereafter, as Mr. White was positioned on his cell bed area, eight or more correctional officers approached Mr. White's cell.

23.) The cell door opened up and officers Contreras, Defendant Baldridge, Defendant Camp, unknown officer 1, and unknown officer 2 rushed into the cell.

24.) Of all the 8+ LCF staff members who were both inside, and now directly outside the cell, none of them were medical staff members. None of them were certified to administer any type of medication to any offender. Mr. White's medication was not brought to him by any of those present staff members.

25.) Any time a medical emergency is declared where there is reason to believe that an offender may be in need of medical assistance, the medical department is contacted and dispatched to the scene where the offender was located. These staff members would be either a nurse or a physician, both with significant medical training. If the LCF staff suspected that Mr. White was either having a medical

situation/ difficulties, Mr was "unresponsive", medical staff would have been called, dispatched and shown up. At no time did any medical staff show up on the scene where these staff members were about to assault Mr. White.

26.) Immediately after entering the cell, officer Contreras spotted the spray bottle which was sitting next to the toilet, he secured it and removed the bottle from the cell. At that moment, any situation had been disengaged.

27.) Mr. White again asked the myriad of officers who were now present in his cell, if he could get his medication. He furthered that he was having a good deal of difficulty breathing, and he explained that he had not been given his breathing medication for several days.

28.) Immediately after Mr. White informed the staff that he was having difficulty in breathing, Defendants Baldridge and Camp unsnapped their 21 Oleoresin Capsicum (OC) tear gas canisters. Both officers told Mr. White that he needed to stand up and "cuff up" (comply with an order to be handcuffed or be taken into custody).

29.) Mr. White once again asked for medical attention and for his breathing meds at which point Defendant Camp became very angry and told Mr. White that he would "spray him in the face immediately" if the plaintiff did not get out of his bunk and comply with the order. Defendant Baldridge followed suit and also threatened to spray Mr. White as he readied his OC spray can nozzle.

30. Mr. White immediately advised both defendants that due to his COPD breathing disease, there was a standing medical order that NO DOC staff member could use OC spray on or near the Plaintiff. Mr. White additionally asked the defendants what was going on and why they were preparing to assault him, as all he was doing was asking for medical attention. The plaintiff also remarked that it had been very obvious that the defendants had not been there conducting a "welfare check" as they had claimed. Mr. White once again asked for medical attention.

31.) Defendant Baldridge put his can of OC spray back in its holster, but defendant



Camp yelled, "Last chance - get off the bunk" as he lifted his OC canister and began to spray Mr. White in the face, wholly unprovoked.

32.) Both defendants Camp and Baldridge grabbed Mr. White by his head, hand, and arms, and slammed him from the bunk onto the concrete floor.

33.) Several other officers (whose identity is unknown to the plaintiff as of the filing of this complaint) began to jump on top of Mr. White, as well as smashing their knees, forearms, and boots all over the plaintiff's back, head and neck as they screamed in unison, "stop resisting", which Mr. White was clearly not doing.

34.) Mr. White had more difficulty breathing and plead with the officers that his condition was worsening, he explained that he was unable to breathe, and they told him that since he was able to communicate he was not having any breathing issues. Mr. White was basically begging for his life, which all fell on sadistic ears.

35.) At some point the officers picked up his semi-limp body which was badly injured off the concrete floor. He was then transferred to a holding cage in the LCF segregation unit.

36.) While in segregation the plaintiff told the staff that he was having problems breathing and that he needed both medical attention and some fresh air.

37.) Several minutes later Mr. White, who had been forced to remain secured with all of the OC spray all over his face, and body, asked the staff to allow him to wash the OC spray off immediately as it was causing burning of Mr. White's skin, lungs, and causing severe tearing of Mr. Whites eyes. He was also unable to see during the entire time. The segregation staff informed him that he would need to wait until the nurse showed up to conduct an 'anatomical' search, an exam that is required protocol on anyone who is first taken into segregation.

38.) Several minutes later the nurse showed up, conducted the anotmoical exam and left. She did not bring Mr. White his medication nor did she inquire into his breathing issues as he had been asking for, for several days at this point.



Thereafter Mr. White was taken to a shower and allowed to wash off the residual OC spray.

39.) The plaintiff was placed in a segregation observation room for approximately one hour. From there he was placed in a segregation cell where he remained until he was given a hearing on the disciplinary write up.

40.) The plaintiff was issued two separate Code of penal disciplinary charged (COPDS) based on the events described in paragraphs 1 through 39 of this complaint. Case number 210792, where he was charged with one count of Class I, Rule 22, Hazzardous liquid assault on staff (which was later modified to Class II, rule 27, Unauthorized/ incidental contact) and class II, rule 11, threats. In this first COPD disciplinary case, Mr. White plead guilty to the threats charge, and plead not guilty to the incidental contact charge, but was found guilty. The second COPD case, case number 210793, Mr. White was charged with class II rule 22 disobeying a lawful order. He plead not guilty and was found guilty. As a result of both cases, he collectively was sentenced to: 15 days punitive/ restrictive housing, 5 days loss of recreation and other privileges, and a loss of 30 days of earned time credits which will in effect cause Mr. White to serve an additional (30) thirty days in prison on the sentence he is currently incarcerated for.

41.) Immediately after the assault on Mr. White, he began to experience a myriad of injuries both physical and psychological that he had sustained as a result of the unlawful force assault. The physical injuries he experienced were, severe lower back pain that radiated down both of his legs. This chronic back injury pain he suffered was debilitating and severely limited his mobility, and basic function in life from that point forward.

42.) In early June 2021, after having requested to be seen and then examined by LCF/ DOC medical staff, he was sent out to be examined by Dr. Jayson A. Lord from Open MRI of pueblo, where an MRI test was conducted and which showed that Mr. White now suffers from a lower back disc bulge diffusion at L-5, S-1, with

vertebrae disc herniation, protrusion type, towards the right side, with mild canal stenosis with encroachment upon the proximal right S1 nerve root, and with the neural foramina narrowly moving towards the right side. As a result of the injuries he sustained from being assaulted by the defendants on January 24, 2021, Mr. White suffers extreme, excruciating daily pain in the lower back that has limited his mobility, and created a significant loss of life. With the addition of the daily pain and his inability to function on a normal level, Mr. White's anxiety and depression have been exacerbated and it continues to worsen his PTSD/ overall depression.

43. Based on the allegations/ statements as contained in paragraphs 1 through 42 of this complaint, Defendants Camp and Baldridge did the following:

- a. Maliciously and sadistically used force to cause harm to Mr. White. The use of force was not 'de minimus' and in violation of Mr. White's 8th amendment rights as it constituted deliberate indifference to his health and safety.

- b. Intended to cause needless harm

- c. Committed acts that were unreasonable in violation of the 4th Amendment

- d. Were not justified by any law enforcement/ prison management/ penological need or standard

- e. the amount of force that was used was repugnant to the conscience of mankind

- f. Use of force was completely excessive to the circumstances

- g. The use of force caused permanent, and severe injuries

- h. the use of force was not applied in a good faith effort and accordingly the defendants acted with malicious, sadistic, and intended to cause harm

- i. the use of force was not used to maintain discipline, but instead was intended to cause harm

- j. the plaintiff's misbehavior did not justify the defendants actions

- k. the use of force was initiated after Mr. White no longer had the bottle

l. the defendants use of a chemical agent against the plaintiff was done knowing that he posed no risk

m. the defendants use of a chemical agent was done against the plaintiff when he was clearly not resisting

n. the defendants actions caused a risk of injury and was deliberately indifferent to the plaintiff's safety, and constituted callous disregard for the plaintiff's safety

o. the defendants violation of the 'NO SPRAY POLICY as described in paragraphg 1 through 42 of this complaint consituted deliberate indifference

44. Based on the allegation/ statements as contained in paragraphs 1 through 42 of this complaint, Defendant Jaques is guilty of substantially causing all injuries and violations as described in sub-paragraphs a through o of paragraph 43 of this complaint, specifically by:

a. Defendants Baldridge and Camp were directly or indirectly acting based upon the orders of Defendant Jaques

b. Because the Defendant Jaques was adequately notified about the (1) missing equipment/ spray bottle that Mr. White had in his posession, and (2) the alleged "assault" that Mr. White was initially alleged to have committed by throwing water on Nurse Gill, Defendant Jaques was adeqautely and properly notiffed, and accordingly defendants Camp and Baldridge were acting on orders from Defendant Jaques, and thus he was guilty of all previous allegations defendants Camp and Baldridge are guilty of

c. Defendants were acting on a policy as implemented and directed upon the order of the Warden, Defendant Jaques

d. The defendants training of defendants Camp and Baldridge was inadequate and grossly deficient

e. Defendant Jaques' supervision of defendants Camp and Baldridge was

inadequate and deficient

f. Defendant Jaques' policy/ supervision/ culture was deliberately indifferent to the plaintiff's health , safety, and well being

g. Defendant Jaques's status as respondent superior causes further liability in this case

45. All allegations, statements previously made herein violate the plaintiff's rights under Colorado State Tort law for:

i. assault and battery

ii. Negligence

iii. Intentional infliction of emotional distress

46. All defendants named in this complaint had a Tort law duty to provide a safe living condition, and all allegations as described herein violate that duty.

47. All actions of all defendants as described in paragraphs 1 through 46 of this complaint violated the provisions of 42 U.S.C. § 1201 et seq., and Section 504 of the Rehabilitation act (29 U.S.C. § 794)

48. The plaintiff reincorporates here by reference all allegations, statements made, facts, etc, as described in the plaintiff's previous two complaints filed in this case.

## E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ☐ Yes ☒ No (check one).

*If your answer is "Yes," complete this section of the form. If you have filed more than one previous lawsuit, use additional paper to provide the requested information for each previous lawsuit. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "E. PREVIOUS LAWSUITS."*

Name(s) of defendant(s): N/A

Docket number and court: \_\_\_\_\_

Claims raised: \_\_\_\_\_

Disposition: (is the case still pending?  
has it been dismissed?; was relief granted?) \_\_\_\_\_

Reasons for dismissal, if dismissed: \_\_\_\_\_

Result on appeal, if appealed: \_\_\_\_\_

## F. ADMINISTRATIVE REMEDIES

*WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court regarding prison conditions. See 42 U.S.C. § 1997e(a). Your case may be dismissed or judgment entered against you if you have not exhausted administrative remedies.*

Is there a formal grievance procedure at the institution in which you are confined?

☒ Yes ☐ No (check one)

Did you exhaust administrative remedies?

☒ Yes ☐ No (check one)

Pursuant to the Colorado Revised Statute § 24-10-109 no grievance is available in excessive force cases.



**G. REQUEST FOR RELIEF**

*State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."*

The Plaintiff requests the Court to award compensatory, actual, and punitive damages against all defendants in an amount to be determined by a jury. The Plaintiff requests the Court to issue injunctive relief forbidding the defendants, or any Colorado Department of Corrections employee from using OC spray, pepper spray, or tear gas against the Plaintiff at any point in the future, or as long as the "No Spray Order" is still in place.

**H. PLAINTIFF'S SIGNATURE**

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. See 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Demarc White  
(Plaintiff's signature)

Jan 5<sup>th</sup> 2023  
(Date)



Denisco White #122323  
12750 Highway 96 AT Lane 13  
Ordway, CO, 81034

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FACILITY DATE RCVD

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